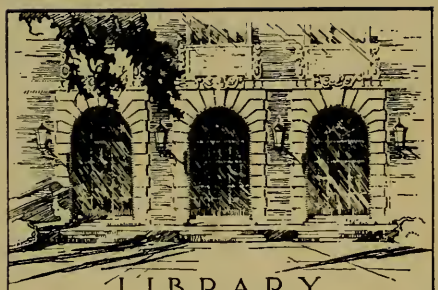

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THE

LAND QUESTION,

IRELAND.

No. XIV.

THE WORKING

OF

THE LAND LAW ACT.

FEBRUARY, 1882.

ISSUED BY

THE IRISH LAND COMMITTEE,

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ONLY a few months have elapsed since Mr. Gladstone introduced his Land Law Bill. That measure professed to deal with five prominent points connected with the Irish Land question, viz. :—'Free Sale,' 'Fixity,' or, to use Mr. Gladstone's euphemism, '*Stability* of Tenure,' 'Fair Rents,' 'Peasant Proprietorship,' and 'Emigration.' All of these points, and the proposals affecting them, were discussed *ad nauseam*, except one; and that point is now the only one which engages public attention! Foreseeing but too clearly that even the present House of Commons would never sanction the theory of 'Fair Rent' which he had made up his mind to adopt, Mr. Gladstone adroitly proposed that the interpretation of the term, and its practical application, should be left to the discretion of the new Land Commission Court, subject only to a direction that the interest of both Landlord and Tenant, and the circumstances of the

case, holding, and district, should be taken into consideration. With a too fatal facility the insidious proposal was accepted; and the result is, that this central point round which the whole Land Question turns, instead of being debated openly in Parliament, and dealt with, after discussion, by the constitutional representatives of the nation, has been left to the secret decision of a number of mongrel tribunals—half court, half valuation office—of the very existence of which, much less their constitution, Parliament had no knowledge or conception, when it handed over to them the estates of the Irish Landlords to be dealt with as they might think fit. Who now speaks—or even thinks—of 'Free Sale,' 'Fixity of Tenure,' 'Emigration,' or 'Peasant Proprietary'? Aaron's rod has swallowed up all the rest; and 'Fair Rent' alone remains to attest the divine commission of Mr. Gladstone.

Let us ask, in all seriousness, was there a man in the House of Commons, except perhaps the few in the immediate confidence of the Government, who did not believe that in delegating the functions of Parliament to the embryo Land Commission Court, he was transferring the responsibility to the supreme tribunal, where the question would be dealt with in open court, according to the practice of the British Constitution; and where, as was then expected, men of independent character and trained judicial intel-

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ligence, would preside? And let us further ask, how many of those who consented so to transfer to the new Land Court the duty of settling the principles on which the 'Fair Rent' should be assessed would have done so, if they had foreseen that the Land Court would, with scarcely a word of direction, content itself with passing on the responsibility to inferior tribunals, presided over by young barristers, and country attorneys, and numbering among their members persons with such peculiar qualifications as being officers of militia, coroners, publicans, and unsuccessful farmers?

But though Parliament deliberately abstained from laying down the principles that should guide the Land Court in fixing the 'Fair Rent,' it did not shrink at the last moment from allowing a clause to be introduced, almost surreptitiously, which affirmed the principle that no rent should be allowed in respect of 'improvements' supposed to be made by the Tenant or his predecessors in title. And, as if all this was not enough, Mr. Gladstone explicitly pledged himself that the persons selected to administer the Act should all be in sympathy with its spirit—in other words, that they should come to the discharge of their judicial functions prejudiced in favour of the Tenant.

In this last respect Mr. Gladstone has most scrupulously kept his word. Of the thirty-nine persons who compose the Chief Commission and

the Sub-Commissions, we doubt if there are five who, by any ingenuity of misrepresentation, could be said not to be predisposed in favour of the Tenant; and good care has been taken to yoke the few who might be suspected of Landlord proclivities with fellow-Commissioners of such sterling 'popular' virtue as to render the minority powerless for good or evil.

On the personal qualifications of the individuals appointed as members of the Sub-Commissions we do not propose at present to offer any opinion. We presume that, when Parliament meets, full scrutiny will be made into this important matter, and each case dealt with on its merits, or otherwise. But we think that, in the interests of public justice and of public decency, it would have been well if the sphere of action of some of the Sub-Commissioners had been removed to a distance from localities with which they were personally connected. It is scarcely edifying to see a gentleman who, two or three months before, had been a practising solicitor in a certain northern town, presiding in the same town as Commissioner under the Land Law Act, and his partner pleading before him as the advocate of the Tenants. Neither is it calculated, at the present time, to strengthen the confidence of the public in the impartial administration of the Act, to find the brother of a parish priest acting as Commissioner in a town not many miles from his brother's parish, and within less than ten miles of

his own dwelling-house; or a publican engaged in carrying out, not far from his own shop, an Act of Parliament which entertains so high an opinion of his calling as to make it a condition of statutory tenure, that no public-house shall be opened on the farm. There is no people in the world more keenly alive to incongruities of this kind than the Irish; and if even a prophet has no honour in his own country or among his own people, what amount of respect will be felt for a Sub-Commissioner of the Land Court under similar circumstances?

But apart from all considerations of public decorum, is it just or fair towards the suitors to submit their cases to the decision of men no less liable than others to the influence of local sympathies and local antipathies?

We have already spoken of Mr. Gladstone's pledge that the persons appointed to carry out the Act should be in sympathy with its spirit; but, while we admit that the intention of the Act was to benefit the Tenants, we claim that it professed to do so without inflicting injustice upon the Landlords. Beginning with the Queen's Speech, in which Her Majesty is made to recommend the further development of the Act of 1870, 'which had been productive of great benefits and had much contributed to the security and comparative well-being of the occupiers of the soil *without diminishing the value or disturbing the foundations of property*'; we next have Mr. Gladstone

himself, when introducing the Land Law Bill, giving utterance to the remarkable statement that the Landlords of Ireland 'had stood their trial, and had as a rule been acquitted.' All through the weary debates in the House of Commons, and even more emphatically in the House of Lords, members of the Government and their allies again and again repeated the assertion that no wrong would be done to the Landlords, and no loss inflicted upon them.

It may be well to quote from *Hansard* a few of the Parliamentary utterances of Ministers and their friends as to the effect of the Land Law Act upon the property of the Irish Landlords.

Mr. Gladstone's remarkable statement, already referred to, is thus reported:—

'Well, sir, neither, I am bound to say, should we think it just to propose legislation on this great matter, on the ground, whether expressed or implied, of general misconduct on the part of the Landlords of Ireland. On the contrary, as a rule, they have stood their trial, and they have as a rule been acquitted. The Report of the Bessborough Commission, which certainly is not deficient in its popular sympathies, in its tenth paragraph declares that the greatest credit is due to the Irish Landlords for not exacting all that they by law are entitled to exact.' And again, 'It may seem hard, when there are so many Landlords with whom we have not a shred of title to interfere, were it possible to sever their case from other

cases around them, that they must be liable to interference on account of the acts or omissions of the few; but so it is, and so it must be, under the iron necessity of public affairs.' (*Hansard*, vol. 260, pp. 892-3). Again, Mr Gladstone says, 'We believe that by bringing together on fair conditions and in fair competition the right of the Tenant to assign, and the right of the Landlord to get what his land is reasonably worth, we shall be able to obtain a result agreeable to justice, and agreeable to the interests of both.' (*Ibid.* p. 904.) At a later stage of the debate Mr. Gladstone said:

'It is said that many Landlords in Ireland think fit to charge a rent lower than the law of fair rents would allow them. There are, no doubt, a number—and not an insignificant number—of Landlords who are content to take, and perhaps take pride in accepting, a less rent than the law would give them.' (*Hansard*, vol. 262, p. 1856.)

Mr. Bright, certainly no friend to Irish Landlords, says—'My view is, that in reality the rents in Ireland will, for the most part, in nine cases out of ten, be fixed very much as they are now. It does not follow that there will be no difference in rents; increases which are harsh and unjust will no longer take place. The effect of this law will be to change the position of the contracting parties; it will improve the position of both.' (*Hansard*, vol. 261, p. 103.)

Let us now hear the opinion of Mr. Law, the

late Irish Attorney-General, and present Irish Chancellor of Mr. Gladstone's Government, and, next to Mr. Gladstone himself, the leading spirit of the debates on the Land Bill in its passage through Parliament.

'Now he (Mr. Law) would like to know upon what ground the Landlords claimed to be entitled to compensation. . . . . If Landlords as a class, or any class of Landlords, claimed to be entitled to compensation, the question must be decided by that House. The Government, however, did not admit that there would be any loss to the Landlord, except the loss of a power which he ought not to exercise. . . . In conclusion, he must repeat that, for his part, he could see nothing in the Bill that interfered with the just rights of the Landlord . . .' (*Hansard*, vol. 261, pp. 1377, 1379, and 1381.)

Mr. Litton, now one of the Commissioners administering the Land Law Act, having given his opinion that 'there need be no litigation, except in those cases where the relations between Landlord and Tenant were strained,' went on to say: 'Once the Landlords adopted and carried out the principles of the "Three F's" the Bill was not required. Therefore, in dealing with this matter a just and fair Landlord had nothing to fear, and in that case things would go on just as if the Bill had never passed.' (*Hansard*, vol. 261, p. 324.)

Mr. Parnell, whom we do not mean to represent as a friend of the Government, or entitled to

speak for them, sums up the Ministerial declarations as to the effect of the Bill, in a speech which was not only not contradicted at the time, but which elicited the incidental concurrence of Mr. Gladstone. Mr. Parnell said—'But we have also the authority of the authors of the Bill as to the extent of this benefit to the Irish Tenants. We have, in addition, the declaration of the principal Ministers of the Crown. We have, first of all, the declaration of the Prime Minister in introducing the Bill, that the Landlords as a rule had stood their trial well, and that he did not propose to interefere with them as a body, and that this Bill would not interfere with the rents of the Landlords as a body [*Mr. Gladstone*, 'Except in the case of the payment of excessive rent']. Just so; in other words, that he did not believe that the rents of the majority of Irish Landlords would be in any way reduced. We have also the statement of the right hon. Gentleman, the Chief Secretary to the Lord Lieutenant, to the same effect. He stated that he believed that a very small minority of Irish Landlords would be affected, in any way, by the measure. We have also the statement of the right hon. Gentleman, the Chancellor of the Duchy of Lancaster (Mr. Bright) the other night, when he said that the Bill would not reduce the rents of more than one-tenth of the whole body of Irish Landlords; and certainly if I am entitled to assume—and anybody can predict, what would be the result of the work of this complicated mea-

sure—I am entitled to assume that the three right hon. Gentlemen who are responsible for this measure know more about its probable working than any other Member.' (*Hansard*, vol. 261, p. 885.)

Let us now turn to the debates in the House of Lords, and we find the Lord Chancellor and Lord Carlingford enunciating the same principles in even stronger language. The Lord Chancellor said: 'I think this is a case in which one cannot do wrong in trying to imagine one's-self in the position of an Irish Landlord. Remember the circumstances under which the legislation takes place, and say in your conscience whether you would think yourself wronged by such a Bill. I can say, with a clear conscience, that I should not think myself wronged.' (*Hansard*, vol. 264, p. 519). Again, referring to the existing agitation, His Lordship went on to say: 'Well, our object is, as far as possible, to put an end to that state of things; and by devising the best means—those most likely, as we think, to work permanently and justly—to secure and maintain the value of the Landlord's interest as much as that of the Tenant.' (*Ibid.* p. 522). Again, even more emphatically, the Lord Chancellor says: 'I deny that it (the Bill) will in any degree whatever diminish the rights of the Landlord, or the value of the interest he possesses' (*Ibid.* p. 532). Lord Carlingford, who was selected to succeed the Duke of Argyle as Lord Privy Seal, for the express purpose of carrying the Bill through the

House of Lords, said: 'My Lords, I maintain that the provisions of this Bill will cause the Landlords no money loss whatever. I believe that it will inflict upon them no loss of income, except in those cases in which a certain number of Landlords may have imposed upon their Tenants excessive and inequitable rents, which they are probably vainly trying to recover.' (*Hansard*, vol. 264, p. 252.)

It is not necessary to multiply quotations; those we have given suffice to show that the responsible authors of the Bill represented it to Parliament as a measure designed to apply only to a small section of Irish proprietors, and not calculated to inflict any injury, or cause any loss to the great majority of the Landlords, against whom no charge of exacting harsh or excessive rents was attempted to be advanced. Accordingly, in the Act itself, we find the rights and interests of the Landlords provided for with apparent care; but when we come to the administration of the Act, we find all the safeguards brushed aside—the one avowed object being to benefit the Tenants; and the one way to benefit them being to reduce the rent.

At the very first sitting of the new Land Court, Mr. Justice O'Hagan, the Judicial Commissioner, in his opening address, dwelt strongly upon the simplicity of the procedure to be adopted, and especially on the facility of access to the Court. His words were:—

'There are no pleadings, no elaborate enumeration of particulars, no statement of claim or of dispute. A Tenant, for example, desiring to have a fair rent fixed for his holding, serves notice on his Landlord saying so, and stating the circum stances of his holding as to situation, present rent, and valuation, all of which lie easily within his own knowledge. He has his choice as to the Court. He may either select the Civil Bill Court of the county or the Land Commission. And so soon as a copy of the notice is transmitted by post to the Clerk of the Peace or the Secretary of the Land Commission, the case is in Court, and will, as early as possible, receive a trial.'

This is, no doubt, a very simple proceeding, and harmless enough at first sight; but, simple and innocent as it looks, it has been the means of inflicting deadly wrong upon the unfortunate Landlords. Under the Land Act of 1870, a Tenant seeking compensation for improvements was obliged to serve on his Landlord a 'statement of claim,' setting forth the particular improvements on which he relied; and he was further obliged to serve this 'statement of claim' a month before the hearing of the case. But the Land Commission has changed all that. The 'statement of claim' is dispensed with, and instead, the Landlord is furnished with particulars as to the 'situation, present rent, and valuation' of the holding, all of which he knows as well as the Tenant. The result, as shown in nearly every case tried, is

that the Landlord learns, for the first time, the 'improvements' claimed to have been made by the Tenant only when the case is actually at hearing, and when it is utterly impossible for him even to cross-examine the witness, much less to offer rebutting evidence. Those who know Ireland—among whom we are willing to reckon Mr. Justice O'Hagan—know how loosely Irish Tenants will swear when their interests are involved. Even under the Act of 1870, when the Tenants were obliged to furnish particulars, and when they knew that the Landlord could and would produce evidence to contradict them, they were accustomed to swear so recklessly, that it was no uncommon thing to find the Court cutting down the claim, to the truth and justice of which they had deposed on oath, to one-fourth or one-fifth of the original demand. Are they likely to be more truthful, or more cautious now, when the claim is made for the first time on the witness table, with the full knowledge that the Landlord cannot offer more than a vague general contradiction in reply?

We repeat that it is almost impossible to estimate the amount of wrong done daily to Irish Landlords, by allowing the Tenants to withhold all information as to the 'improvements' in respect of which they intend to claim a reduction of rent, until the case is actually at hearing. Besides, such a mode of procedure is wholly foreign to British law. Fancy a statute

passed enabling a tradesman to sue a customer for a bulk sum on foot of an account without furnishing particulars before the trial! Fancy the worst criminal that ever disgraced humanity, learning for the first time, when given in charge to the jury, the offence of which he is accused! No nation, though just emerging from barbarism, would tolerate for a moment a proceeding so repugnant to even the most elementary notion of justice; but, under the 'simple procedure' of the Irish Land Court, the Landlords are hourly required to meet claims for improvements by Tenants of which they have had no previous notice, no 'statement of claim' whatsoever, and, consequently, no possible opportunity of testing their reality, or rebutting them, if unfounded. And this denial of justice is paraded as a merit of the Tribunal which sanctions it! We are entitled to ask if Parliament, when passing the Land Bill, had any idea of the possibility of such a mode of procedure being adopted. That it found no place in Mr. Gladstone's original conception of the Land Court is plain from the following extract from his speech introducing the Bill, as reported in the *Times* of April 8th, 1881:—'There is another condition which I cannot help mentioning, and it is this—we cannot have a one-sided Court. If the Court is to interfere, it must be for the purpose of doing justice; we cannot lay down the proposition that it is to interfere for the protection and advantage of the Tenant alone.

We cannot make those who occupy the seat of justice forget justice, even for promoting objects so highly important as Land Reform.'

It is strange that these words, of which any statesman might be proud, are not to be found reported in *Hansard.*

Let us now see how the Sub-Commissioners have discharged their trust. So far they have been occupied solely with settling the 'Fair Rent' —an operation which they have reduced to a system of the greatest simplicity. It would seem as if it was part of their commission to reduce rents everywhere, and under all circumstances. In the cases already decided by them, the number in which they have increased the existing rent could almost be counted on the fingers; and in some of these cases they have added only a few shillings—six shillings in one case, and half-a-crown in another—to the rent paid previously. In one instance the addition was made avowedly in the Tenant's interest, so that he might reap, at an almost nominal cost, the whole advantage of the Landlord's outlay on drainage during the past two years. Various explanations of this uniform action in lowering rents have been given. The Land Leaguers say the rents are too high, and have not been reduced half enough. The apologists for the Commissioners say that the first cases brought into Court were necessarily those most loudly demanding interference with the present rents. Others, admit-

ting the suspicious aspect of the case, plead that it is necessary to entice the Tenants into Court by liberal reductions in the earlier instances, and assert that the more flagrant decisions will be set right on appeal. The Commissioners themselves scorn to give reasons for their decisions. They have excellent reasons, they say, 'plentiful as blackberries; but they won't give them on compulsion.' In some cases the presiding Sub-Commissioner pronounces a formal judgment after the orthodox fashion; but, if the Court is in a hurry to dinner, or wants to value a few farms before dark—and darkness sets in early in January in our latitude—he contents himself with reading out the figures without note or comment.

In no instance, however, has any Sub-Commissioner committed himself to a definite enunciation of the principles by which he has been governed in arriving at the judicial rent, although to ascertain and define those principles is the very duty which Parliament delegated to the Land Commission Court; and although it would be of the last importance to Landlords and Tenants anxious to come to a settlement—if any such be left—to know exactly what they might expect in the event of litigation.

Mr. Commissioner Litton, in a lengthened judgment, delivered by him at Belfast, in the case of *Adams* v. *Dunseath*, professes to give his opinion as to how the fair rent should be ascertained; but we must confess that, though we have

read this judgment more than once, we have not risen from its perusal with any clearer notions on the subject than we had before. Briefly stated, Mr. Litton's opinion is, that the 'Fair Rent' is the 'Commercial Rent' reduced by the annual value of the Tenant's improvements. Let us grant, for argument's sake, that such a rent would be fair; let us grant that such a rent is that contemplated by the Act—though to neither proposition can we give our entire assent—and how are we assisted or advanced in our effort to ascertain the 'Fair Rent' by Mr. Litton's formula? The fundamental difficulty still remains—what is the 'Commercial Rent'? Mr. Litton expressly states that it is not the 'Competition' Rent. What then is it; and how is it to be estimated? Until we know this, Mr. Litton's elaborate effort to define the principles for ascertaining the 'Fair' Rent affords really no assistance to either Landlord or Tenant anxious to avoid litigation by coming to a settlement out of Court. It is the old Hindoo theory of the universe over again: the world rests on the elephant, the elephant stands on the tortoise, the tortoise stands upon—what? 'Fair' Rent depends on 'Commercial' Rent; but what does 'Commercial' Rent depend upon? We infer from Mr. Litton's quotation from the Report of the Bessborough Commission that it depends upon the gross produce of the land; but neither Mr. Litton nor the framer of the Bessborough Report attempts to define how the Commercial

Rent is to be deduced from the gross produce. The truth is, that 'Commercial' Rent and 'Competition' Rent mean exactly the same thing—the terms are strictly convertible; and the only true way in which the value of land can be ascertained is by free competition between those who wish to have it. Some glimmering of this fact seems to have dawned upon one of the legal Sub-Commissioners, who has refused to assess the value of the Tenant's saleable interest in his holding, on the express grounds that it cannot be ascertained until the holding is actually in the market for sale, when the highest sum bid for it must be regarded as the true value. This is precisely the 'competition' or 'commercial' value of the Tenant's interest in the holding; and supposing the sale and bidding to be *bonâ fide*, it is the true value; and the Tenant, under the Land Law Act, is entitled to get it, subject to any claim the Landlord may have for rent, &c. On the same principle, the Fair Rent of a farm should be its *bonâ fide* 'competition' or 'commercial' value, subject to any well-founded claim the Tenant may have for improvements. The strange part of the matter is, that the Sub-Commissioner who is unable to assess the value of the Tenant's interest, without submitting it to the test of public competition, has no hesitation whatever about fixing the amount of the Landlord's rent after a trifle of hard swearing by interested parties, and a cursory view of the land as he drives from one town to another. So far from admitting competi-

tion as a guide to rent, he expressly excludes it, the value of the farm, in the shape of rent, being not what an ordinary Tenant would gladly pay for it, but what he thinks the Tenant ought to pay.

It is worthy of note that Mr. Commissioner Litton, when quoting the principles of 'Fair' Rent from the Report of the Bessborough Commission, omitted to refer to the remarkable limitation in paragraph 55, which will be found a little farther on.

But though the Sub-Commissioners so persistently refuse to state the principles by which they will be governed in fixing the 'Fair Rent,' they have not been equally reticent as to the principles by which they will *not* be guided. For example, no length of time during which a rent has been paid without a murmur, and during which generations of Tenants have 'lived and thriven' upon a farm, will be accepted as presumptive evidence that it is a 'Fair Rent.' Rents that have been paid for twenty, thirty, fifty, aye even for an hundred years, have been cut down as ruthlessly as if they had been raised but yesterday.

In the following Tables will be found a few specimens of the manner in which old rents have been reduced. We have arranged them in three periods, for the purpose of comparison; and we give none except such as had been paid for at least twenty years prior to the passing of the Land Law Act.

TABLE I.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed prior to* 1840.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, . .	2	77 19 11	57 2 4	26.8
LEINSTER, .	5	121 17 0	99 3 3	18.6
MUNSTER, .	1	80 10 0	66 0 0	18.0
CONNAUGHT,	11	89 12 9	66 0 0	26.4
TOTAL, .	19	369 19 8	288 5 7	22.1

TABLE II.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed between* 1840 *and* 1850.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, .	6	116 10 4	99 15 0	14.4
LEINSTER, .	—	—	—	—
MUNSTER, .	4	93 11 2	70 10 0	24.6
CONNAUGHT,	2	51 18 7	41 10 6	20.1
TOTAL, .	12	262 0 1	211 15 6	19.2

TABLE III.—*Cases in which Judicial Rents have been fixed by the Assistant-Commissioners, the Old Rents having been fixed between* 1850 *and* 1860.

Province.	No. of Cases.	Old Rent.	Judicial Rent.	Per Centage Reduction.
		£ s. d.	£ s. d.	
ULSTER, .	1	47 0 0	35 0 0	25.5
LEINSTER, .	3	76 4 11	58 5 9	23.5
MUNSTER, .	15	599 12 8	441 18 0	26.3
CONNAUGHT,	5	114 7 8	86 14 3	24.2
TOTAL, .	24	837 5 3	621 18 0	25.7

Summarizing the foregoing Tables, we find that in the 55 cases tabulated, an aggregate rental of £1469 5*s.*, which had been paid for not less than twenty, and in 19 cases for over forty years, has been reduced to £1121 19*s.* 1*d.*—being a reduction of £347 5*s.*, or 23.6 per cent.—the standard reduction where judicial rents are declared.

It may be said that the number of cases tabulated is small; but the answer is, that they form no inconsiderable percentage of all the cases dealt with; and that they establish a precedent fraught with danger to the most deserving class of Landlords in Ireland—the very class with whom Mr. Gladstone said, when introducing the Land Bill, that Parliament 'had not a shred of title to interfere.' Contrast these sweeping reductions of old rents with the principle laid down by Lord

Bessborough's Commission, which says (Report, p. 24, par. 55):

'It must not be supposed that the whole of this process will require to be gone through in all cases. It will generally be possible to start from some time when the rent was, in the opinion of both parties, considered fair, and to confine the investigation to the circumstances alleged, on the one side, as altering the conditions then existing, or, on the other, as a set-off against these circumstances. *It will be expedient, further, to lay down that a rent which was paid at any time within the last twenty years, and which continued for not less than ten years to be regularly paid, shall be, in all cases, taken to be such a starting point.*'

Again, no amount of negligence or waste on the part of the Tenant, even though he may have exhausted the soil of his farm to the point of sterility, is to be taken into account in fixing the 'Fair Rent.' The farm is to be valued in its present condition, and the Landlord, who was powerless to prevent the waste, is mulcted in a certain percentage of the rent in favour of the Tenant who caused it. That a Tenant should not be required to pay rent upon *bonâ fide* improvements made by himself, for which he has not been compensated, is a principle which no one dreams of disputing; and the very arguments by which this principle is supported appear to ordinary minds to be equally cogent in support of the correlative principle that a Tenant who

ignorantly or designedly allows his farm to go to waste should not be recouped at the expense of his Landlord.

A third principle, which is not recognised by the Sub-Commissioners in fixing the 'Fair Rent,' is, that the usufruct of improvements for a certain number of years compensates the tenant for any outlay he may have incurred in making them. This principle is studiously ignored, even in cases where no additional rent has been imposed since the improvements were executed. How it can be contended that the rent of a farm is to be reduced because of improvements, no matter how beneficial, executed by the tenant since the farm was let at that rent, passes ordinary comprehension. The tenant has had all the benefit of them, the Landlord none; but, notwithstanding, the rent which the Tenant contracted to pay for the farm in its unimproved state is to be diminished in proportion to the advantage which he alone has derived from the outlay: contrary to the homely proverb, the Tenant is 'to eat his cake and to have his cake,' and that at the expense of the Landlord, who has had no cake at all—not even a slice! On this point, namely, that a compensating term is sufficient to recoup the Tenant for his outlay on improvements, the Bessborough Commission speaks very plainly, and suggests (Report, p. 24, par. 54) that a term of thirty-five years should be fixed as that beyond

which the presumption should be, that the improvements were not made by the Tenant. 'Otherwise,' adds the Report, 'the rent of an ancient farm might in many cases be liable to reduction to the value of so much waste land.'

There is another class of cases in which the Landlords had of themselves reduced to a considerable extent rents previously paid; but these fare no better at the hands of the Commissioners than Landlords who had raised their rents during the prosperous years. The consideration shown by them is held to justify still further reductions. We give a few such cases in tabular form:—

TABLE IV.—*Showing Voluntary Reductions which had been made by Landlords prior to the passing of the Land Act (at various dates), and the further Reductions by the Assistant-Commissioners.*

Province.	No. of Cases.	Rent prior to Voluntary Reduction.			Rent in Originating Notice.			Judicial Rent.			Percentage of Commissioners' Reduction
		£	s.	d.	£	s.	d.	£	s.	d.	
ULSTER, .	11	279	1	0	247	8	2	179	8	6	27.4
LEINSTER, .	9	351	3	10	296	2	6	246	15	6	16.6
MUNSTER, .	8	315	0	5	273	3	2	214	0	10	21.6
CONNAUGHT,	3	43	13	0	36	3	0	21	12	6	40.2
TOTAL, .	31	988	18	3	852	16	10	661	17	4	22.5

These Landlords had already voluntarily reduced their rents by nearly 14 per cent.; but the

Sub-Commissioners are not satisfied, and a further average reduction of 22.5 per cent. is forthwith decreed.

But perhaps the most flagrant injustice—certainly the most obvious—is that done to purchasers in the Landed Estates Court. We do not refer to the speculative purchasers, who bought with the intention of raising the rents, and so getting a larger percentage on their outlay—though even for these much can be said on the ground of abstract justice—but we refer to *bonâ fide* investors, who bought with no intention of seeking a high percentage for their money, and who did not raise the rents above the point at which they stood when they purchased; nay, who had even in some cases reduced them. The following Table shows how they have been dealt with in the Land Court :—

TABLE V.—*Showing Rent of Holdings at time of purchase in the Landed Estates Court, the Rent in Originating Notice, and the Judicial Rent.*

Province.	No. of Cases.	Rent at time of Purchase.	Rent in Originating Notice.	Judicial Rent.	Percentage of Commissioners' Reduction
		£ s. d.	£ s. d.	£ s. d.	
ULSTER, . .	1	31 8 6	27 6 0	25 2 0	8.0
LEINSTER, .	6	222 19 10	222 19 10	157 15 0	29.2
MUNSTER, .	11	404 5 8	377 19 6	295 8 0	21.8
CONNAUGHT,	10	135 1 8	135 1 8	97 2 9	28.1
TOTAL, .	28	793 15 8	763 7 0	575 7 9	24.7

Let us recall briefly the circumstances under which these Landlords acquired their estates. After the great famine, caused by the loss of the potato in 1846 and following years, the Government of the day introduced a Bill for the Sale of Incumbered Estates in Ireland—a very sweeping measure, and one that was administered in a very sweeping manner. It would be tedious to go through the history of the Act and its operation, nor is it necessary for our present purpose. Suffice it to say, that the great difficulty was to find purchasers for the numerous estates suddenly thrown on the market. Previously the only medium of sale was, in most cases, through the Court of Chancery, by a tedious and expensive process —so expensive that, on small estates, the legal costs sometimes exceeded the purchase-money when the estate was at last brought to the hammer. Obviously, it was necessary to get rid of this cumbrous machinery, and to give the purchaser—who alone was considered then, as the tenant alone is considered now—a simple and perfect title at the least possible cost, and with the least possible delay. The plan adopted was to provide that every purchaser under the Court should get a Parliamentary Conveyance, absolutely indefeasible under any circumstances whatever; and so sacred was this title held that where, in a well-known case, portion of another man's estate was erroneously included in the conveyance, it was held by the Court of Appeal that there was no

remedy—that the conveyance could not be disturbed.

The Incumbered Estates Act provided for the transfer of all right, title, and interest in the land in the most thorough and complete manner. Everything in and upon the land was conveyed to the purchaser, including, of course, the reserved rent, which was fully set out in a schedule attached to the deed of conveyance, and the absolute ownership or reversion of all buildings and other improvements existing on the land at the time of sale. Further, the notices of sale, authorised by the Court itself, and signed by its officer, frequently held out, as inducements to the purchasers, that the rents were low, and could be raised; or that the Tenants held under old leases which would soon expire, 'when a considerable increase of rent might be expected.' The right to this increase of rent was one of the things conveyed by the Court in solemn form, and guaranteed to the purchaser by a special enactment of the Legislature, which has never been repealed. If ever a nation entered into a specific contract to maintain the security of property, the British nation did so with the purchasers in the Incumbered Estates Court; and it scarcely redounds to the credit of the British Parliament that, under its apparent sanction, those purchasers should be deprived of the property thus solemnly guaranteed. We say advisedly that Parliament had no more right to authorise the Land Commission Court to reduce the rents sold in the

Landed Estates Court, and conveyed to the purchasers by Parliamentary Title on which the ink is scarcely yet dry, than it would have to pass a law ordering the persons among whom the purchase-money was divided by the Court to refund one-fourth of it to the defrauded purchasers. We dwell upon this branch of the case, because it exposes, in the most glaring light, the vicious principle that underlies the whole Land Law Act, namely, that the property of one class can be transferred to another without compensation. The contract of the State with its members to maintain the security of property is as binding in the case of inherited as it is in the case of purchased property—as binding in the case of land as in that of houses, or money, or merchandize; and if the State requires the property of any section of its members for the benefit of any other section, it is bound to pay for it honestly in one form or other.

Owing to the number of Sub-Commissions recently let loose on the country, and to the different and distant localities in which they have been at work, it has been a matter of great difficulty to collect trustworthy statistics of their operations; but the Land Committee has succeeded in obtaining details of the decisions in 1164 cases in which judicial rents have been declared, being very nearly the entire number as yet adjudicated on. In the following Table, these 1164 cases are arranged by Provinces; and no trouble has been spared to present the particulars tabulated as accurately as possible.

TABLE VI.—*Showing details of cases in which Judicial Rents were declared up to 31st January, 1882, so far as same could be ascertained.*

PROVINCE.	Number of cases dealt with.	Area in Statute Measure.			Rent.			Poor Law Valuation.			Judicial Rent.			Reduction.			Increase.			Percentage of Reduction on Original Rent.
		A.	R.	P.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	
ULSTER, . .	450	12,297	0	22	10,371	16	6	7670	16	7	7856	7	9	2531	0	11	15	12	2	24·3
LEINSTER, .	205	8564	1	30	7230	2	10	4855	15	3	5740	8	6	1492	11	10	2	17	6	20·6
MUNSTER, .	268	11,613	3	4	11,360	15	5	7051	12	2	8757	7	10	2613	17	7	10	10	0	22·9
CONNAUGHT,	241	5755	2	13	3307	13	3	2197	4	9	2395	7	6	914	12	3	2	6	6	27·6
IRELAND, . .	1164	38,230	3	29	32,270	8	0	21,775	8	9	24,749	11	7	7552	2	7	31	6	2	23·3

This Table demands most attentive consideration. It is to be observed, in the first place, that the holdings dealt with did not consist of specially poor soil; on the contrary, it was considerably above the average in point of quality. The average Poor Law Valuation of all Ireland, excluding the towns, is 10*s.* $1\frac{3}{4}$*d.* per statute acre; the average valuation of the farms in respect of which a Judicial Rent has been pronounced is 11*s.* $4\frac{1}{2}$*d.* per statute acre, or 1*s.* $2\frac{3}{4}$*d.* per acre above the average of the whole country. In other words, the valuation of the lands included in the Table is a little over twelve per cent. above the average valuation of all Ireland. It is important to bear this fact in mind.

The next thing that strikes us is the remarkable correspondence between the Judicial Rents and the Poor Law Valuation. In Ulster, the Judicial Rents are less than two and a-half per cent. above the valuation; in Leinster, about eighteen per cent.; in Munster twenty-four per cent.; and in Connaught nine per cent. For all Ireland, the Judicial Rents, so far as they have been pronounced, exceed the valuation by not quite 13.7 per cent.

We have no desire to re-open the controversy respecting the Poor Law Valuation as a basis of rent. The question was fully discussed in one of the earlier publications of the Irish Land Committee,* and was finally disposed of by the

* 'Notes on the Government Valuation of Ireland, commonly called Griffith's Valuation.'

Reports of both the Richmond and the Bessborough Commissions, published last year.

The Duke of Richmond and Gordon's Commission reports (page 8) that—

'Difficulties have been raised regarding the assessment made by the late Sir R. Griffith, called "Griffith's Valuation," by the endeavour to set up this valuation, which was based on prices current thirty years ago, as a standard of rental at the present day. The circumstances under which the valuation was made are set forth in the evidence of several witnesses, and it is conclusively proved that the annual value, as set forth in that document, was not intended to represent, and did not represent, at the date when the valuation was made, the rental value of the property. The increase which has taken place in the prices of all kinds of agricultural produce by the introduction of railways, steam, and other developments since the valuation was made is so great that, even after making allowance for the increased cost of production, we are led to the conclusion that the valuation is not a trustworthy guide to the present rental value.'

The language of Lord Bessborough's Commission is even more explicit. The Report says, paragraph 64, page 26:—

'If anything has been clearly established in evidence during this inquiry, the fact that the present Government valuation is not a trustworthy standard for the settlement of rents has been most

thoroughly demonstrated. Fair as it may have been for the purposes of local taxation in the years when it was made, the evidence shows that even then it was considered as below the fair letting value of the land. Those who argue to the contrary ignore the fact, that while there was nowhere any motive at work to cause the officials employed to value too highly, there was a universal pressure to force down the valuation, to which it was not unnatural for the valuators to yield. No injustice was done to anybody, while everybody was satisfied so long as the underestimate was general and uniform.'

Sir R. Griffith himself declared that 33 per cent. should be added to the valuation to arrive at the fair letting value; and Mr. J. Ball Greene, the present Head of the Valuation Office, has put in evidence Tables showing how much the valuation of other parts of Ireland should be increased to make it uniform with that of Ulster, which is admitted to be relatively higher than the rest of the country. No one at all acquainted with the subject regards the Poor Law Valuation as a guide to the letting value of land; and, in the face of a fact so well established and so notorious, it is strange indeed to find the Sub-Commissioners under the Land Law Act following so very closely upon the lines of that valuation.

But the most remarkable, and the most discouraging feature disclosed by the Table, is the wonderful uniformity in the amount of reduction

made by the Sub-Commissioners in the rents that have come under their review. A reduction of 24.3 per cent. in Ulster; of 20.6 per cent. in Leinster; of 22.9 per cent. in Munster; of 27.6 per cent. in Connaught; and of 23.3 per cent. for all Ireland, is not more startling by its amount than by its marvellous uniformity. Let us examine the fact a little more closely. There are no less than *twelve* Sub-Commissions now in full work, each consisting of three members. The president of each is a lawyer, either a barrister or an attorney, who *a priori* knows nothing of the value of land: the other members of the Sub-Commissions are recruited from all sorts and conditions of men, whose varied antecedents agree in nothing except that, as a general rule, they have had no professional experience as practical valuators. We use the word 'professional' advisedly; the valuation of land is a profession as much as that of an engineer or a lawyer; and a man requires long and varied experience before he can hope to rise to eminence in it. The best and most painstaking Valuators will differ in their estimate of the value of a farm—sometimes differ considerably—just as men in other professions will differ in opinion; and we may go so far as to say that independent professional Valuators will seldom agree exactly. But here we have thirty-six amateurs, with no professional training, and, in many cases, with but little practical knowledge of land; they go north, south, east, and west; they visit farms at a

gallop, at the most unsuitable season of the year, even when the ground is frozen hard; and so wonderful is their instinctive knowledge, that, next day, they assess the value of each farm with the utmost minuteness; and when their decisions are tabulated, behold they correspond almost to a decimal! And yet some of these men assert that they got no instructions—that they are perfectly unfettered in their judgment!

Mr. Gladstone, as we all remember, made short work of the laws of political economy when they ventured to differ from him; but unless he can dismiss with equal facility the law of averages and the doctrine of chances, he will scarcely be able to persuade the public that thirty-six men of the class of his Sub-Commissioners, working by threes in different parts of the country, could have arrived at identical results on such a matter as the assessment of rent, without previous concert or direction.

Mr. Litton, Q.C., one of the Chief Commissioners specially appointed to lay down rules for fixing the fair rent, thus speaks of the difficulty of arriving at anything like unanimity on the point. In the case of *Adams* v. *Dunseath*, already referred to, he says: 'Now, I do not affect to define a fair rent—to do so is almost, if not altogether, impossible; and for this reason, if for no other, that a different estimate of what is fair as regards almost every action in life will be arrived at by different men, as the character of each may

have been formed under those influences which conduce to make some men instinctively reasonable and just, and others exacting and ungenerous. The question of rent forms no exception to the general rule, and the estimate of a fair rent is, within certain limits, as uncertain as the character of the man to whose judgment the question is submitted.'

If we were to reason analytically from the results to the principles that underlie them, we might venture to conjecture that two of the 'principles' laid down by the Land Commission for measuring the 'Fair Rent' were, first, to follow generally the lines of Griffith's Valuation, making the necessary deviations in different parts of the country; and, second, so to conduct their proceedings that an average reduction of twenty-five per cent. should be made in the rental of Ireland. These 'principles' might have been carried into effect in the General Valuation Office in Dublin, without any Land Court, and at the hundredth part of the cost of that expensive tribunal.

The proceedings of the Sub-Commission Courts afford abundant matter for criticism, which they will no doubt receive in due time. The hostile attitude towards the Landlords, contrasted with the eagerness not alone to benefit the Tenant, but to make him feel that the mission of the Court is to benefit him; the burlesque of evidence by tenants who, while waiting for their own cases

to be heard, come forward to testify for their neighbours as to the 'fair rent' of their holdings; the dictatorial and bullying airs of some practitioners towards the Court, submitted to with becoming meekness; the frequent applause, and not infrequent manifestations of personal hostility; the edifying spectacle of a Court of the Land Commission making a triumphal entry into a town in Mayo, preceded by the Land League band, and serenaded nightly by the same tuneful brethren; the judicial dignity of a legal Sub-Commissioner, and a Queen's Counsel to boot, speaking of a nobleman whose case he was trying as 'this man,'* and asserting that his superiors, the Triumvirate of Merrion-street, would not have the 'spirit of a mouse,' if they did not do something to 'this man,' which the law would not allow either him or them to do: these and many similar peculiarities will no doubt receive their full meed of attention in due season. For the present we must content ourselves with recalling to memory some remarkable judicial utterances which it would be a pity to let die.

At the very first sitting of the North-East Sub-Commission in Belfast, on the 31st of October

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* It is right to say that Mr. Foley, the Sub-Commissioner referred to, has since publicly disavowed this expression, and we have no doubt has forgotten that he used it, however inadvertently. But the *consensus* of the reporters present is against him; and he has not disavowed the still more striking words in which he expressed his opinion of the courage of his superior officers. We may add that we took the expression "this man" from the *Freeman's Journal*.

last, Counsel for the Landlord in one of the cases 'asked a number of questions as to the surroundings of the holding and its situation'; we quote from the *Freeman's Journal* of the following day: 'Professor Baldwin said all these accidental circumstances were unnecessary. What they wanted was to get at the agricultural value of the land pure and simple.' Such may be Mr. Baldwin's opinion, but the Act of Parliament, which he is bound to administer, authorises him to fix the 'Fair Rent,' only 'after hearing the parties, and having regard to the interest of the Landlord and Tenant respectively; and *considering all the circumstances of the case, holding, and district.*' These words seem plain enough; but Mr. Baldwin declares judicially that these 'circumstances' are 'accidental' and 'unnecessary,' and proceeds to adjudicate accordingly.

The same gentleman lays down the very dangerous doctrine that 'skill in farming must be eliminated' from the estimate of the 'Fair Rent.' We do not mean to assert that a higher rent should be imposed on a good farmer because he is a good farmer; but we most emphatically dissent from the doctrine implied in the dictum, that the rent of a farm is to be fixed below its intrinsic value because the Tenant is a bad farmer. No one knows better than Mr. Baldwin that the 'fair average tenant,' of whom he speaks, is generally a very indifferent farmer; and it is pushing the principle of protection to

Tenants a little too far to take their want of agricultural skill and knowledge into account, as a justification for reducing the rent of their farms. There are tens of thousands of Tenants in Ireland, who, if their farms were valued in proportion to their agricultural ignorance and want of skill, would pay no rent at all.

Another rather startling proposition was affirmed by the Western Sub-Commission in the case of Malone *v.* Thompson.

In this case the Tenant said he was not ready to go on. He could not get a surveyor. All the surveyors had been taken up by the Landlords. The Chairman, Mr. J. G. M'Carthy, late Home Rule M.P. for Mallow, replied, 'It will be some comfort to you to know that we do not attach much importance to the evidence of paid valuators.'

The Tenant, be it observed, wanted not a valuator but a surveyor, probably to measure his holding; and, from Mr. M'Carthy's reply, it is to be presumed he would attach as little importance to the evidence of a paid surveyor as to that of a paid valuator. No doubt he would rely implicitly on the estimate made by his colleagues of the size as well as of the value of a farm; and we readily admit they would be as likely to be right in the one case as in the other.

But perhaps the most remarkable of the judicial utterances of the Sub-Commissioners were those at Urlingford, County Kilkenny, by Mr. Reardon, Barrister-at-Law, and his colleagues,

Messrs. Cunningham and Mowbray. It is right to observe that Mr. Mowbray is one of the few practical valuators who has found his way into the Commission.

Mr. Reardon said—'In these cases, as there is a difference of opinion amongst us, and as my brother Commissioners desire to make some observations, I shall review the evidence and state what in my opinion the fair rent of the holdings should be. The holdings are situated at a place called Damerstown, about a mile from Castlecomer. As far as we know, or have been informed, the rents have not been altered within the century, and they appear to have been paid with tolerable regularity except in some rare instances, and in bad years. The lands have been described to us as having been originally wheat lands, and there is some vague tradition that the rents were fixed at the time of the wars of the Great Napoleon, when the price of wheat was exceptionally high.

'No evidence has been given to us as to what state the lands were in when they were originally let, but there is the clearest evidence in the soil of the lands themselves that they always have been of excellent quality. Improvements in the way of building houses, making fences, and some not very extensive draining, have been proved to have been made from time to time by the Tenants and their predecessors in title, and no claim to these improvements has been made by or on behalf

of the Landlords. In considering, therefore, what the fair rent of the holdings should be, we have to give the Tenants credit for the value of such improvements. The holdings are bordered on two sides by a river, a circumstance which for farming purposes is well known to be of great advantage. Moreover, we find that the Tenants and the Landlords were on the best of terms, and, as far as we could discover, no unpleasantness had ever occurred between them with respect to the rents paid. We have it also that when one of the holdings became vacant within the last year it was purchased by one of the tenants at the old rent for a considerable sum of money. All the facts appear to point to one conclusion, and that is, that the rents on this estate are fair, and that we shall accordingly so declare. I have not, however, been able to come to this conclusion, for there are other circumstances and other evidence in these cases which lead me to believe we should be doing an injustice to the Tenants if we did not make some reduction in now fixing the rent to be paid by them during the judicial term. In my opinion a fair rent should be such as, having due regard to the property and interests of the Landlords, an intelligent and industrious Tenant can pay out of the return from the labour and capital expended on his holding, through good years and through bad, without having to apply in bad years for any abatement or reduction, while it leaves to the Tenant a fair

average remuneration for the labour and capital invested. I am satisfied the present rents are not fair rents according to my interpretation of the term, and in coming to this conclusion I am greatly influenced by the conduct of the landlords and the condition of the Tenants. There is evidence that the Landlords gave the Tenants a substantial reduction in a bad year. It appears to me that if they thought a reduction proper to be given to them, it is sure evidence that the present rents are too high to be paid by the Tenants through bad years and good. Mr. Maher, on behalf of the Landlords, and Mr. Bradley, on the part of the Tenants, valued the lands at a figure not much exceeding the Government valuation. It is true Mr. Nolan repudiated Mr. Maher, but still the fact remains. It appears to me from the evidence and from personal inspection, that though the Tenants have paid the rents they have not thriven. Taking these circumstances, with the fact that the Government valuation of the land, made by sworn and skilled valuators, is little more than half the rental, the rental being £209 12*s.* 2*d.*, while the Government valuation of the land is only £125 9*s.*, I cannot help thinking that it is incumbent on us to give Tenants some relief. I now come to consider the measure of that relief. The Landlords and Tenants have, I think, supplied us with a kind of measure by which a Fair Rent can be fixed, and that is the amount of abated rent which the Landlords offered to take and the Tenants were able to pay, after the bad season above alluded to, taken with the

offers the Landlords have here made to reduce the rent. Making my calculation on this basis, I have come to the conclusion that the following are the Fair Rents which ought to be fixed':—

[Mr. Reardon then proceeded to announce the Judicial Rents, the details of which it is not necessary to give.]

Mr. John Cunningham—'I concur in the judgment of the Chairmain. As, however, our brother Commissioner Mowbray dissents, I wish to make a very few observations. After considering, with what care and judgment I could bring to bear on the task, the circumstances of these cases, the holdings and districts disclosed by the evidence, and by a careful, personal inspection, my independent estimate of a Fair Rent, to be paid for fifteen years, is about six per cent. below the amount announced by the Chairman. While I regret that I am thus below my brother Commissioners as regards my valuation, I have some compensating support in the fact that, much further below mine, I have both the Government valuation and that of the two arbitratory valuators chosen by, or on behalf of the Landlords and the Tenants respectively. As skilled valuators frequently differ in the value they set on agricultural holdings, I have no hesitation in adopting the valuation of the Chairman. Looking at the general decline in rents over the United Kingdom, I confess I should examine and re-examine with anxiety any estimate which would saddle Irish Farmers over a whole estate for fifteen years

with rents forty-two per cent. over the valuation of the sworn and independent valuators of the Government made thirty years ago. To adopt the offer of the Landlord would have that effect in these cases. The Land Act of 1881 directs that no rent shall be made payable in respect of improvements made by the Tenant which the Landlord has not compensated him for. In my valuation I measured the Tenants' interests in their holdings at eight shillings per acre, and I deducted eight shillings per acre per annum from my estimate of the competition rent. As to the other general bearings in these cases, I cordially adopt the summary given in the judgment just delivered by the Chairman.'

Mr. Seymour Mowbray.—'I regret I am unable to concur with my brother Commissioners in the decision they have come to. It is quite clear under the Land Act that we are sworn to take into consideration all the circumstances connected with each case. I find the estate of Damerstown most favourably situated, being little over a mile from the town of Castlecomer, where there is a weekly market, besides the usual monthly fairs. It is also situated on both sides of the high road to Kilkenny, which is some nine miles distant. These I consider great advantages. It appears there has not been any rise of rent on this estate for generations, and the Tenants have always paid their rents regularly. This I consider some proof that they are not over-rented. We are all aware of the adverse seasons of 1878

and 1879, when agriculturists in all parts of the country suffered considerably, and when it became necessary for many Landlords to give a temporary reduction of rent to their Tenants. This estate was no exception to the rule, as we find that a reduction of 3*s.* in the pound was given. Mr. Nolan, one of the Landlords, stated he offered 5*s.* an acre reduction to some of his Tenants, and 7*s.* 6*d.* to others. After a careful inspection of the holdings, I came to the conclusion that the rents were not excessive, and that any reduction I could make would not be equal to the liberal offer made by the Landlords. Wishing, however, to give the Tenants the full benefit of their Landlords' offer, I am of opinion the rents should be fixed at the reduction offered by Mr. Nolan.'

It is scarcely necessary to comment upon this judgment. Mr. Reardon, in his opening remarks, states the case for the Landlords so forcibly that the conclusion, to which he admits the facts point, seems irresistible There was evidence that the rents had not been disturbed within the century; that the land was of excellent quality; that Landlords and Tenants had lived on the best of terms; that in a bad year the Landlords had come to the Tenants' aid by a liberal abatement; that only last year a vacant holding was purchased by *one of the Tenants* for a considerable sum of money; in fact, as Mr. Reardon candidly said, all the facts appeared to point to the one

conclusion that the rents were fair. But, as a Sub-Commissioner, he was bound to reduce them —else why was he there?—and accordingly reduce them he did *by over sixteen per cent.!*

The excuses—we cannot call them reasons—which he gave for this reduction would be simply amusing, if the matter were not fraught with such grave issues to the country. They were threefold: first that there was '*some vague tradition* that the rents were originally fixed at the time of the wars of the Great Napoleon, when the price of wheat was exceptionally high'; second, that 'the Landlords gave a substantial reduction in a bad year'; and third, that he had ascertained, by 'personal inspection, that though the Tenants had paid the rents they had not thriven.'

It is difficult to read this judgment with patience. With all the *facts* admittedly pointing to the irresistible conclusion that the rents were fair, Mr. Reardon decides that they must be reduced: his remarkable words are that 'it is incumbent on us to give the Tenants some relief.' Surely Mr. Reardon, as a lawyer, will admit that 'some vague tradition' should not be accepted as evidence, even by a Sub-Commission Court under the Land Act; and he will scarcely deny that the fact that the Landlords gave a substantial abatement in one bad year out of a hundred does not logically lead to the conclusion that the Tenants who had paid the rent for the other ninety-nine years could not pay it for fifteen years more.

It is almost childish for Mr. Reardon to talk of his 'personal inspection.' All we can say is, that if he knows so little of Irish Tenant-farmers of the smaller class, as to suppose they would allow him to see signs of prosperity at his 'personal inspection,' he is *primâ facie* unfit for his position.

He might have remembered the fact which he quotes in his Judgment, that, so recently as last year, one of these Tenants, 'who had not thriven,' paid a 'considerable sum of money' for a farm which had become vacant on the estate; and that at the old rent.

This case is one of several in which the kindness and forbearance shown by Landlords to their Tenants have been wrested into arguments against themselves, and their desire to come to an amicable arrangement made the grounds for depriving them of justice. Whatever may have been the previous relation of the parties, or whatever offer the Landlord may have made out of Court, as soon as the case is at hearing the sole duty of the Sub-Commissioners is to fix the 'Fair Rent.' In some of the few cases in which rents have been raised by the Sub-Commissioners they expressly declared that they would have added more but that the Landlord had expressed his willingness to accept a small increase. That was a plain dereliction of duty. They are bound to fix the 'Fair Rent,' and should do so irrespective of any private feeling of the Landlord; they are not so solicitous to consult his feelings when they are reducing the rent.

If the principles enunciated by Mr. Reardon in the Urlingford case are allowed to form a precedent, no Landlord in Ireland is safe from a reduction of his rents. We doubt if there be a Landlord in the country who has not at some time forgiven rent or made abatements to his Tenants in bad years. This, which has been hitherto considered a praiseworthy act, is now declared by a Court of competent jurisdiction to be one deserving of punishment; and the more liberal the abatement was, the more severe the penalty will be!

We conclude, for the present, by repeating the question, Had Parliament, when it delegated to the Land Commission the duty of defining the principles on which the Fair-Rent should be fixed, the remotest conception of the manner in which the trust would be carried out? And, if it had not, we further ask, Is it not the duty of Parliament, whose confidence has been betrayed, to interpose before it is too late, and remedy the grievous wrong that its too-confiding legislation has inflicted on the Landlords of Ireland?

Postscript.—Since the foregoing was written, a Parliamentary Return has been issued giving the details of the Judicial rents declared up to 28th of January, 1882. This Return shows results so nearly identical with those ascertained by the Land Committee, as given in Table VI. *ante*, that

the observations in the text will be found equally applicable to both.

The following is the Government Return, to which we have added the percentages:—

Summary showing, according to Provinces, the Number of Cases in which Judicial Rents have been fixed by Sub-Commissioners, and also the Acreage, Tenement Valuation, Former Rents, and Judicial Rents of the Holdings.

Provinces.	No. of Cases in which Judicial Rents have been fixed.	Acreage.	Tenement Valuation.	Former Rent.	Judicial Rent.	Percentage of Reduction on former Rent.
ULSTER, .	530	14,282	9,800	12,958	9,796	24·4
LEINSTER, .	258	11,595	6,618	9,620	7,541	21·6
CONNAUGHT,	221	5,033	1,877	2,866	2,050	28·5
MUNSTER, .	304	11,892	7,554	11,997	9,199	23·3
TOTAL, .	1,313	42,802	25,849	37,441	28,586	23·6